

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION)
OF DELMARVA POWER & LIGHT)
COMPANY FOR AN INCREASE IN) PSC DOCKET NO. 20-0149
ELECTRIC BASE RATES)
(FILED MARCH 6, 2020))

ORDER NO. 9893

AND NOW, this 27th day of October 2021, the Delaware Public Service Commission (“Commission”) determines and orders the following:

WHEREAS, on March 6, 2020, Delmarva Power & Light Company (“Delmarva” or the “Company”) filed with the Commission an application (the “Application”) seeking the approval of 1) an increase in its electric base rates; and 2) miscellaneous tariff changes; and

WHEREAS, by Order No. 9642, dated September 9, 2020, the Commission authorized the Company to place into effect an interim rate increase in the amount of \$26,915,207, subject to refund; and

WHEREAS, the Commission met in public session on August 4 and 5, 2021, to hear oral argument and conduct deliberations on the issues addressed in, and exceptions taken to, the Hearing Examiner’s Report dated June 25, 2021; and

WHEREAS, on August 5th, the Commission entered Order No. 9853, which approved an overall increase in Delmarva’s distribution rates of \$17,724,252 and ordered a refund, with interest, of the difference between the interim rates approved in Order No. 9642 and the rates approved in Order No. 9853, or \$9,190,955; and

WHEREAS, on August 11, 2021, Staff filed a Motion for Reargument (“Staff’s Motion”) alleging that Delmarva had not fairly, nor accurately, represented its actions in modifying the terms

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of the Commission-approved settlement agreement (the "Settlement Agreement") entered in Docket No. 17-0977, thereby increasing interim rates by approximately one million dollars; and

WHEREAS, on August 25, 2021, the Commission heard Staff's Motion, and other parties' responses to Staff's Motion, and entered Order No. 9863 directing Delmarva to immediately adjust customer's rates to reflect the EDIT levels agreed to in the Settlement Agreement, thereby increasing the refund to customers by approximately one million dollars over the values set forth in Order No. 9853; and

WHEREAS, Order No. 9863 also included a reprimand and a directive that Delmarva file a remediation plan with the Commission within 30 days of August 25, 2021, based, in part, on Delmarva's inclusion of its actual EDIT balances in interim rates in this docket, as opposed to the EDIT balances set forth in the Settlement Agreement from Docket No. 17-0977; and

WHEREAS, on September 15, 2021, the Commission entered Order No. 9884, wherein it modified Order No. 9853 to approve an overall increase in Delmarva's electric distribution rates of \$16,729,583 to reflect removal of the difference in EDIT balances from the revenue requirement; and

WHEREAS, on September 24, 2021, the Company filed a timely Petition for Rehearing and Reconsideration ("Delmarva's Petition") on the reprimand and remediation directive in Order No. 9863, arguing that Staff's inclusion of the reprimand and remediation request with Staff's Motion was procedurally deficient and that the Commission's reprimand and remediation directive were unwarranted in the absence of intentional misconduct on Delmarva's part; and

WHEREAS, on October 6, 2021, the Commission heard oral argument on Delmarva's Petition including Delmarva's statement acknowledging its mistake in not identifying, in its

Application, that its proposed recovery of actual EDIT balances deviated from the terms of the Settlement Agreement, as required by 26 *Del. Admin. C.* § 1002-2.1.5 of the Commission's *Minimum Filing Requirements* ("MFR 2.1.5"), that its mistake was not intentional, and that it is putting controls in place at this time to avoid similar mistakes in future filings; and

WHEREAS, based on the positions of the parties and on its October 6, 2021 deliberations, and considering, on the one hand, Delmarva's violation of MFR 2.1.5 and its delay in acknowledging its departure from the Settlement Agreement and considering, on the other hand, Delmarva's commitment to put internal controls in place to avoid future such violations and the complexities surrounding the interplay between interim rates in this docket as authorized by statute, at 26 *Del. C.* § 306(b), and the terms of the Settlement Agreement from Docket No. 17-0977, the Commission voted to remove from Order No. 9863 its reprimand and the requirement for a remediation plan but to issue a warning to Delmarva regarding future violations of MFR 2.1.5; and

WHEREAS, the original proposed Order No. 9893, which the Commission voted to adopt on October 6, 2021 (with certain modifications), included a directive to Delmarva "to submit a revised version of Order No. 9863, consistent with this Order, within ten (10) days to replace the prior version of Order No. 9863 on DelaFile" and Delmarva has submitted a revised Order No. 9863, which the Commission will consider separately for adoption;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE
VOTE OF THREE COMMISSIONERS:**

1. That Delmarva's petition for rehearing and reconsideration is granted. As a result of the Commission's October 6, 2021 deliberations referenced above, the Commission hereby

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modifies Order No. 9863, pursuant to the authority set forth in 29 *Del. C.* § 10128(e), to remove (a) the reprimand issued to Delmarva in Ordering Paragraph No. 2, and (b) the requirement that Delmarva file a remediation plan with the Commission in Ordering Paragraph No. 3, the Commission having found, after further review, that Delmarva's actions do not warrant a reprimand or the need for a formal remedial plan.

2. That ordering Paragraph No. 2 and Ordering Paragraph No. 3 of Order No. 9863 are hereby stricken in their entirety.

3. That the Commission hereby issues a warning to Delmarva that if it fails to disclose departures from prior orders in future filings, as required by MFR 2.1.5, Delmarva will be subject to penalties including, but not limited to, monetary penalties pursuant to 26 *Del. C.* § 217, or a public reprimand, or both.

4. That the Commission reserves the jurisdiction and authority to issue such further Orders as it deems necessary or proper.

BY ORDER OF THE COMMISSION:

Dallas Winslow, Chairman

[Abstaining]
Joann Conaway, Commissioner

Harold Gray, Commissioner

[Absent for October 6, 2021 vote]

Manubhai “Mike” Karia, Commissioner

Kim F. Drexler, Commissioner

ATTEST:

Matthew Hartigan, Acting Secretary